ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
SAM BIRD, JUDGE

DIVISION III

CACR06-706

MAY 9, 2007

RICK HUGHES
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

APPEAL FROM THE SEBASTIAN COUNTY CIRCUIT COURT
GREENWOOD DISTRICT
[NO. CR-2002-99]

HON. JAMES R. MARSCHEWSKI, JUDGE

AFFIRMED

Rick Hughes appeals the revocation of his suspended sentence for sexual abuse in the first degree, a Class C felony. The trial court revoked his suspended sentence and sentenced him to two years' imprisonment and a five-year suspension. Although appellant's sole point on appeal is that there was insufficient evidence to support revocation of his suspended sentence, his brief does not address this point on appeal but instead raises two additional arguments: (1) the trial court erred in allowing into evidence his probation officer's testimony regarding his drug use because appellant was not advised of his *Miranda* rights; and (2) the trial court erred in denying him the right to confront witnesses with regard to his failure to register as a sex offender. We find no error and affirm.

On October 23, 2002, appellant entered a plea of guilty to the offense of sexual abuse in the first degree. The trial court entered a judgment and commitment order on the plea on October 28, 2002, sentencing appellant to six months' imprisonment and a suspended

sentence of nine and one-half years. On February 22, 2006, the State filed a petition to revoke appellant's suspended sentence, alleging that appellant had violated the written terms and conditions of his suspended sentence by, among other violations, failing to register as a sex offender in the State of Oklahoma as ordered; failing to maintain steady employment; changing his place of residence without prior permission from his supervising probation officer; and testing positive and/or admitting to the use of alcohol and controlled substances.

The trial court held a hearing on the petition on March 24, 2006, and granted the State's petition at the hearing, making the following findings:

> [T]he State has proven by a preponderance of the evidence that you have violated the terms and conditions of your suspended sentence. I believe that you did use methamphetamine and marijuana while you were on probation. The Terms and Conditions specifically state that you will not violate the law, and that is a violation of the terms and conditions of your original suspended sentence.
>
> I do not believe you have complied with the registration requirements, or I'm not satisfied – you brought me one piece of evidence here that you have, on March 23rd, complied with the notification requirements over in the State of Oklahoma, but there's no evidence in all of the moving around that you have done during this time period that you have complied with those rules.

A judgment and commitment order was entered on March 28, 2006, revoking appellant's suspended sentence and sentencing him to two years' imprisonment and a suspended sentence of five years. Appellant brings this appeal.

In order to revoke probation or a suspension, the trial court must find by a preponderance of the evidence that the defendant inexcusably violated a condition of that probation or suspension. *Peterson v. State*, 81 Ark. App. 226, 100 S.W.3d 66 (2003). The State bears the burden of proof but need only prove that the defendant committed one

violation of the conditions. *Richardson v. State*, 85 Ark. App. 347, 157 S.W.3d 536 (2004). We do not reverse a trial court's findings on appeal unless they are clearly against the preponderance of the evidence. *Sisk v. State*, 81 Ark. App. 276, 101 S.W.3d 248 (2003).

Because appellant provides no argument as to why there was insufficient evidence to support the trial court's revocation of his suspension, we will not address this argument on appeal. *See Polston v. State*, 360 Ark. 317, 331, 201 S.W.3d 406, 414 (2005) (stating that it will not consider an argument when the appellant presents no citation to authority or convincing argument and it is not apparent without further research that the argument is well taken). The first argument appellant makes in his brief is that his probation officer failed to advise him that the admission of drug use by him could result in new criminal charges being filed against him or that this information would be used against him in court. He argues that his Fifth Amendment right against self-incrimination was violated because he was not given *Miranda* warnings.

The relevant facts are as follows. Brandy Perez, appellant's probation officer, testified that appellant tested positive for marijuana on January 19, 2006; February 1, 2006; and February 16, 2006. She also testified that he admitted to her on December 14, 2005—and signed a confession on that date so stating—that he had used methamphetamines and marijuana and that he drank alcohol on a daily basis. He signed another confession on January 19, 2006, stating that he had used marijuana on January 16, 2006. In addition, and critical to our decision in this appeal, appellant testified at the hearing on the petition to revoke that he had been using marijuana prior to being put in jail on February 16, 2006, and thus during his suspension.

Because appellant testified *in the revocation hearing* that he had used marijuana during the term of his suspended sentence, we do not address his argument that the use of his earlier statements to his probation officer violated his Fifth Amendment rights against self-incrimination. One of the conditions of appellant's suspended sentence was that appellant "shall not possess or use marijuana, narcotic[s], or any other drug or controlled substance prohibited by the controlled substance law." Even without Ms. Perez's testimony, appellant's own testimony was sufficient for the trial court to find that he violated this condition.

Because the State must only prove that the defendant committed one violation of the conditions, *see Richardson*, *supra*, we do not address appellant's second argument regarding his failure to register as a sex offender. We hold that the trial court's findings were not clearly erroneous and affirm.

PITTMAN, C.J., and GRIFFEN, J., agree.